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TO:	FROM: <i>Cindy H. Kwacala</i>
Examiner Footland, Lenard A.	Cindy H. Kwacala, Reg. No. 47,667
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PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
571-272-7103	H0004369-5702
RE:	RECIPIENT'S REFERENCE NUMBER:
Response	10/802,072

URGENT

FOR REVIEW

PLEASE COMMENT

PLEASE REPLY

PLEASE RECYCLE

NOTES/COMMENTS:

**FORMAL COMMUNICATION INTENDED FOR  
ENTRY**

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NOV 29 2005 UTILITY PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: DAVIS, Lawrence et al.

Group Art Unit: 3682

Serial No.: 10/802,072

Examiner: Footland, Lenard A.

Filed: March 15, 2004

Attorney Docket No.: H0004369 - 5702

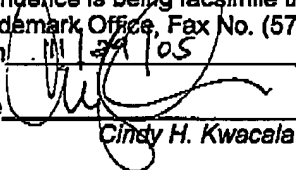
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On 11/29/05

by Signature

  
Cindy H. Kwacala

**RESPONSE TO ELECTION/RESTRICTION REQUIREMENT**

Commissioner of Patents  
Alexandria, VA 22313-1450

Commissioner:

In full and timely response to the Election/Restriction Requirement mailed November 7, 2005, Applicants acknowledge the Examiner's finding of the patentable distinctness between two groups and nine species. According to the Examiner:

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Group I corresponds to Claims 1-9 and 14-18; and

Group II corresponds to Claims 19-13.

Applicants hereby elect to prosecute the claims of Group I (Claims 1-9, 14-18) for prosecution on the merits.

With regard to the species, the Examiner alleges that the following groups of figures correspond to different species:

Specie I corresponds to FIGs. 3-7;

Specie II corresponds to FIG. 8;

Specie III corresponds to FIG. 9;

Specie IV corresponds to FIG. 10;

Specie V corresponds to FIG. 11;

Specie VI corresponds to FIG. 12;

Specie VII corresponds to FIGs. 13 and 14;

Specie VIII corresponds to FIGs. 15 and 16; and

Specie IX corresponds to FIG. 17.

In response, Applicants, through their representatives and attorneys, hereby provisionally elect Specie 1 with traverse. It is submitted that Claims 1-6 and 14-18 read on FIGs. 3-7. This election is with traverse for at least the following reasons.

Initially, Applicants wish to point out that this traversal is not an admission that any or all of the cited species are not independent, nor that any or all of the cited species are not patentably distinct from one another. However, Applicants do submit that the independent and patentably distinct species are related under the particular disclosure. Where, as here,

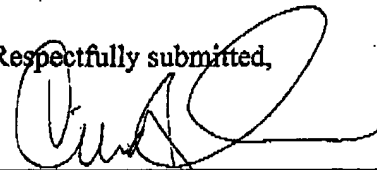
"inventions as disclosed and claimed are both (A) species under a claimed genus and (B) related, then the question of restriction must be determined by both the practice applicable to the election of species and the practice applicable to other types of restrictions such as those covered in MPEP § 806.05 – 806.05(i)." See M.P.E.P. § 806.04(b). In accordance with this practice, when several patentably distinct inventions are disclosed as being related, the Examiner must establish reasons for insisting upon restriction. In particular, reasons for insisting upon restriction must be shown by an explanation of: (1) separate classification; (2) separate status in the art when classifiable together; or (3) a different field of search. See M.P.E.P. § 808-808.02. Applicants submit that such an explanation has not been provided, and further submit that one cannot be so provided.

This reply is believed to be fully responsive to the election requirement mailed on November 7, 2005. Should the Examiner have any questions or wish to further discuss the above-identified application, Applicants request that the Examiner contact the undersigned at (480) 385-5060.

If for some reason an extension is required to prevent abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-2091 for any fee which may be due.

Dated 11/29/05  
Ingrassia, Fisher & Lorenz, P.C.  
Customer No. 29906

Respectfully submitted,

  
Cindy H. Kwacala  
Registration No. 47,667